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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FRANK A. RUST,
Plaintiff,
v.
CHINO PRISON HEALTHCARE
PROVIDERS, et al.,
Defendants.

Case No. 5:17-cv-00556-JAK-KES

ORDER ACCEPTING REPORT AND
RECOMMENDATION OF UNITED
STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the pleadings and all the records and files herein, along with the Report and Recommendation of the United States Magistrate Judge. Further, the Court has engaged in a de novo review of those portions of the Report and Recommendation to which objections have been made. The Court accepts the findings, conclusions, and recommendations of the United States Magistrate Judge.

IT IS THEREFORE ORDERED that Defendants' Motion for Summary Judgment (Dkt. 39) is DENIED IN PART as to (i) Plaintiff's Eighth Amendment claims against both Defendants arising out of their alleged failure to protect him

1 from LVN Warfield, (ii) Plaintiff's Eighth Amendment claim against Dr. Vu
2 arising out of the failure to provide Plaintiff with a cervical pillow, and
3 (iii) Plaintiff's First Amendment claim against Dr. Vu arising out of his alleged
4 retaliation against Plaintiff failing to provide him with a cervical pillow.

5 IT IS FURTHER ORDERED that the Motion for Summary Judgment (Dkt.
6 39) is GRANTED IN PART as to all other claims against Defendants in the First
7 Amended Complaint. These claims are dismissed without prejudice for failure to
8 exhaust administrative remedies.

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10 DATED: July 5, 2018

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13 JOHN A. KRONSTADT
14 UNITED STATES DISTRICT JUDGE
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